HONOURABLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.3911 of 2005

Dated: 26-07-2005

Between:

1. T.Sakkubaiamma .. Petitioenrs

and

1. The Mandal Revenue Officer and 4 others. .. Respondents

HONOURABLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No.3911 of 2005

ORDER:

This writ petition is filed seeking a Mandamus, declaring the action of the respondents in trying to dispossess the petitioner from the land in Survey No.461/2 to an extent of Ac.0.54 cents, situate in Gandlapalli village, Chittoor

Mandal and District, without following due process of law, as per the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act and Rules, 1977 (for brevity 'the Act'), as illegal and arbitrary.

2. It is the case of the petitioner that her husband was assigned to an extent of Ac.0.54 cents in the year 1955. After the death of her husband, she came into possession and enjoyment of the said land. While so, the 1st respondent-Mandal Revenue Officer, issued a show-cause-notice dated 20-08-2002, stating that the Legal Representatives of the petitioner have alienated the land through registered sale deeds and calling her explanation as to why the assignment shall not be cancelled and why she shall not be evicted from the land in question. The petitioner gave a reply to the said show-cause-notice on 05-09-2002. Being dissatisfied with the explanation submitted by the petitioner, the 1st respondent-Mandal Revenue Officer, Chittoor, passed orders dated 01-10-2002, canceling the assignment granted in favour of husband of the petitioner earlier. Aggrieved by the same, the petitioner filed an appeal before the 2nd respondent-Revenue Divisiona Officer, Chittoor Division and again preferred a revision before the 4th respondent-Chief Commissiioner of Land Administration, Hyderabad. The 4th respondent dismissed the revision, directing the petitioner to approach the 2nd respondent against the order of the 1st respondent. Aggrieved by the same, the petitioner filed another revision before the 5th respondent-Government of Andhra Pradesh. Pending disposal of the said revision, the present Writ Petition has been filed.

3. The respondents filed their counter-affidavit stating that the petitioner sold the assigned land to various persons as mentioned in para-3 of the counter-affidavit. It is further stated that the assignment was cancelled on 27-06-1955 and the land was resumed by the Government. It is further stated that the petitioner has not preferred any appeal against the order of the 1st respondent. But, one Vasundhara, who is a purchaser of an extent of Ac.0.17 cents, has filed an appeal before the 2nd respondent, and it is said to be pending disposal. When the matter was reserved for Judgment, the petitioner has directly approached the Court without filing any appeal before the appellate authority, and hence, the Writ Petition is liable to be dismissed.

4. As seen from the record, the petitioner filed an appeal before the 2nd respondent. But, it is not clear whether the petitioner has approached the 2nd respondent, within the prescribed period of 90 days. The revision filed by the petitioner before the 4th respondent was dismissed on the ground that the petitioner has to approach the 2nd respondent against the order of the 1st respondent. The petitioner is not in a position to inform the number of appeal said to be filed before the 2nd respondent. So, the version of the petitioner that she filed an appeal before the 2nd respondent against the orders of the 1st respondent is not believable.

5. Therefore, the question of invoking *suo-mottu* power conferred on the District Collector or the Government under Section 4(b) of the Act does not arise. Hence, I see no reason to entertain this Writ Petition at this stage.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

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July 26, 2005

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